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International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Letter dated 19 June 2009 from the Secretary-General addressed to the President of the General Assembly

I have the honour to transmit the attached letter dated 27 May 2009 from Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia (see annex I) and the attached letter dated 29 May 2009 from Judge Dennis Byron, President of the International Criminal Tribunal for Rwanda (see annex II). Both letters relate directly to the ability of the International Tribunals to implement their completion strategies.

In his letter, President Robinson requests that the General Assembly:

(a) Expand the membership of the Appeals Chamber by authorizing the President to redeploy four permanent judges from the Trial Chambers to the Appeals Chamber;

(b) Extend the term of office of judges of the International Tribunal for the Former Yugoslavia;

(c) Authorize the International Tribunal for the Former Yugoslavia to exceed temporarily the statutory maximum number of ad litem judges serving at the Tribunal.

Similarly, President Byron requests that the General Assembly:

(a) Expand the membership of the Appeals Chamber by authorizing the President to redeploy four permanent judges from the Trial Chambers to the Appeals Chamber;

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(b) Extend the term of office of judges of the International Criminal Tribunal for Rwanda.

In addition, President Byron is asking the General Assembly to allow one judge to engage in another professional occupation in his home country and to work part-time while drafting his final judgement, and reconsider the entitlements of ad litem judges.

Both letters provide detailed explanations of and justification for the requests.

I should be grateful if you would bring the attached letters from President Robinson and President Byron to the attention of the members of the General Assembly. Early action is needed in order to provide the International Tribunals with the continuity, stability and certainty necessary for the efficient and effective implementation of their completion strategies. I would therefore appreciate the Assembly considering this matter at the earliest opportunity.

(*Signed*) **Ban** Ki-moon

Annex I

Letter dated 27 May 2009 from the President of the International Tribunal for the Former Yugoslavia addressed to the Secretary-General

By the present letter, I wish to bring to your attention three issues of importance to the efficient implementation of the completion strategy of the International Criminal Tribunal for the Former Yugoslavia, as contained in Security Council resolution 1534 (2004).

1. Redeployment of trial judges to the Appeals Chamber

The first issue concerns the necessity of redeploying four permanent trial judges from the International Tribunal for the Former Yugoslavia and four permanent trial judges from the International Criminal Tribunal for Rwanda to the Appeals Chamber upon the completion of their trial work to expedite the work of the Appeals Chamber.

The Tribunal has made an assessment of its projected appellate work and concluded that with the current composite of judges serving on the Appeals Chamber it will not complete its work until 2015. With the redeployment of eight additional judges, four from the International Tribunal for the Former Yugoslavia and four from the International Criminal Tribunal for Rwanda, it is estimated that the Tribunal can complete most appellate work by 2012, with four cases utilizing six judges running into July 2013. It is anticipated that the first redeployment of a trial judge to the Appeals Chamber from the International Tribunal for the Former Yugoslavia will take place in October 2010, and the last redeployment will take place with the end of the Karadžić case in February 2012. This proposed redeployment is contained in the Tribunal's 2010-2011 biennium budget submission and it is upon that basis that I bring it to your attention at this time.

2. Extension of the mandate of appeal, trial and ad litem judges

The second issue concerns the necessity of extending the mandate of the Tribunal's ad litem judges, permanent trial judges and appeals judges to allow the Tribunal to complete its outstanding work. Security Council resolution 1837 (2008) extended the terms of office of permanent judges who are members of the Appeals Chamber until 31 December 2010, or until the completion of the cases before the Appeals Chamber if sooner. It also extended the terms of office of permanent trial judges and ad litem judges of the Tribunal until 31 December 2009, or until the completion of the cases to which they are assigned if sooner. The Tribunal's projections show that some judges will be required for longer periods of time than other judges. Based on those projections, the Tribunal currently estimates that the extensions described below will be required.

The following permanent judges currently assigned to the Appeals Chamber require extensions of their mandates until 31 July 2013, or until the completion of the cases to which they are assigned in the Appeals Chamber if sooner:

Patrick Robinson (Jamaica)

Liu Daqun (China)

Theodor Meron (United States of America)

The following permanent judges currently assigned to the Appeals Chamber require extensions of their mandates until 31 December 2012, or until the completion of the cases to which they are assigned in the Appeals Chamber if sooner:

Fausto Pocar (Italy)

Carmel Agius (Malta)

The following permanent judges currently assigned to the Trial Chambers and to be redeployed to the Appeals Chamber following the completion of their trials require extensions of their mandates until 31 July 2013, or until the completion of the cases to which they are assigned in the Appeals Chamber if sooner:

O-Gon Kwon (Republic of Korea)

Jean-Claude Antonetti (France)

The following permanent judges currently assigned to the Trial Chambers and to be redeployed to the Appeals Chamber following the completion of their trials require extensions of their mandates until 31 December 2012, or until the completion of the cases to which they are assigned in the Appeals Chamber if sooner:

Alphons Orie (the Netherlands)

Bakone Justice Moloto (South Africa)

The following permanent judges assigned to the Trial Chambers require extensions of their mandates until 31 December 2010, or until the trials to which they are assigned are completed, whichever is sooner:

Kevin Parker (Australia)

Christoph Flügge (Germany)

Christine Van den Wyngaert (Belgium) (elected to the International Criminal Court and expected to resign effective 1 September 2009)

Replacement of Mohamed Shahabuddeen (Guyana) (resigned effective 11 May 2009)

The following permanent judge assigned to the Trial Chambers requires extension of his or her mandate until 31 July 2012, or until the trials to which he or she is assigned are completed, whichever is sooner:

Replacement of Iain Bonomy (United Kingdom of Great Britain and Northern Ireland) (resigned effective 21 August 2009)

The following ad litem judges assigned to trials require extensions of their mandates and terms of service where necessary until 31 December 2010, or until the trials to which they are assigned are completed, whichever is sooner:

Pedro R. David (Argentina)

Michèle Picard (France)

Uldis Kinis (Latvia)

Frederik Harhoff (Denmark)

The following ad litem judges assigned to trials require extensions of their mandates and terms of service where necessary until 31 December 2011, or until the trials to which they are assigned are completed, whichever is sooner:

Elizabeth Gwaunza (Zimbabwe)

Flavia Lattanzi (Italy)

Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo)

Árpád Prandler (Hungary)

Stefan Trechsel (Switzerland)

The following ad litem judge assigned to trials requires the extension of his mandate and term of service until 28 February 2012, or until the trials to which he is assigned are completed, whichever is sooner:

Melville Baird (Trinidad and Tobago)

Finally, the Tribunal requests the extension of the terms of office of the following ad litem judges, who are not currently appointed to serve at the Tribunal, until 31 July 2012, or until the completion of any cases to which they may be assigned if sooner:

Frans Bauduin (the Netherlands)

Burton Hall (the Bahamas)

Jawdat Naboty (Syrian Arab Republic)

Raimo Lahti (Finland)

Chioma Egondu Nwosu-Iheme (Nigeria)

Prisca Matimba Nyambe (Zambia)

Brynmor Pollard (Guyana)

Vonimbolana Rasoazanany (Madagascar)

Tan Sri Dato Lamin Haji Mohd Yunus (Malaysia)

3. Assignment of a thirteenth ad litem judge

The third issue is a request that the Tribunal be permitted to go beyond the statutory limit of 12 ad litem judges and call for the assignment of one additional ad litem judge, taking the number of ad litem judges to 13 to allow the Tribunal to commence the Karadžić case in August with a reserve judge. The Tribunal anticipates that in November 2009 it will return to 11 ad litem judges with the delivery of the judgement in the *Popović et al.* case and the departure of two ad litem judges at that time (Kimberly Prost (Canada) and Ole Bjørn Støle (Norway)).

The Tribunal requests that it be permitted to assign up to 13 ad litem judges for the period of 1 August to 31 December 2009.

I should be grateful if you would bring the present letter to the attention of the Security Council and the General Assembly for their consideration.

(*Signed*) Patrick **Robinson**
President

Annex II

Letter dated 29 May 2009 from the President of the International Criminal Tribunal for Rwanda addressed to the Secretary-General

I am writing to you concerning four issues:

(a) The extension of the mandate of Trial Chamber and Appeals Chamber judges;

(b) The expansion of the Appeals Chamber;

(c) The specific situation of Judge de Silva;

(d) The status of the ad litem judges.

1. Expansion of the Appeals Chamber and redeployment of trial judges

Judge Robinson, Presiding Judge of the Appeals Chamber, and I have agreed on the need to request an enlargement of the Appeals Chamber. We have also agreed that Judge Robinson will make representations in this respect to the Security Council. The enlargement will be essential to provide the necessary resources to deal with the heavy workload to be expected at the appeals level from mid-2010. Among the currently serving seven permanent trial judges at the International Criminal Tribunal for Rwanda, the following four would be available for redeployment to the Appeals Chamber after completion of their cases:

Dennis Byron (Saint Kitts and Nevis)

Khalida Rachid Khan (Pakistan)

William H. Sekule (United Republic of Tanzania)

Arlette Ramaroson (Madagascar)

Judge Sekule and myself have not yet taken a definite decision as to whether to join the Appeals Chamber. In case our places would need to be filled, two options could be envisaged: either additional permanent judges could be appointed to the International Criminal Tribunal for Rwanda or the vacant positions could be left to be filled by judges from the International Tribunal for the Former Yugoslavia.

Attached to the present letter is an overview of the current assignments of all judges currently serving at the International Criminal Tribunal for Rwanda, including the expected dates of judgement delivery in their ongoing cases (see appendix I).

2. Extension of the terms of office of Trial Chamber and Appeals Chamber judges

The terms of office of the International Criminal Tribunal for Rwanda trial judges will currently expire on 31 December 2009, as set out in Security Council resolution 1824 (2008).

All but two of the trial judges currently serving at the Tribunal are sitting in cases in which the judgement drafting will last until at least mid-2010.

The only two judges who intend to finalize the judgement drafting in their current cases by the end of 2009 and who are not available for an extension of their

mandate are Erik Møse (Norway) and Sergei Alekseevich Egorov (Russian Federation). The specific situation of Judge de Silva is explained in section 3 below.

The terms of office of the two International Criminal Tribunal for Rwanda Appeals Chamber judges will currently expire on 31 December 2010, as set out in Security Council resolution 1824 (2008). However, according to current projections, some Appeals Chamber judges will have to serve until 2012 and others until mid-2013 in order to complete all appeal cases. It is therefore necessary to extend their mandate. At this stage, I would request that the Council extend the mandate of the Appeals Chamber judges to 31 December 2011. This extension should also apply to the trial judges who will be redeployed after finalizing their current cases.

Based on the above-mentioned considerations, I request the Security Council to extend the mandate of the currently serving judges as follows:

Permanent judges, Trial Chamber

Dennis Byron	Until 31 December 2011
Khalida Rachid Khan	Until 31 December 2011
William H. Sekule	Until 31 December 2011
Arlette Ramaroson	Until 31 December 2011
Joseph Asoka Nihal de Silva	Until 31 December 2010

Permanent judges, Appeals Chamber

Mehmet Güney	Until 31 December 2011
Andrésia Vaz	Until 31 December 2011

Ad litem judges

Solomy Balungi Bossa	Until 31 December 2010
Lee Gacugia Muthoga	Until 31 December 2010
Florence Rita Arrey	Until 31 December 2010
Emile Francis Short	Until 31 December 2010
Taghrid Hikmet	Until 31 December 2010
Seon Ki Park	Until 31 December 2010
Gberdao Gustave Kam	Until 31 December 2010
Vagn Joensen	Until 31 December 2010
Joseph Masanche	Until 31 December 2010
Mparany Rajohnson	Until 31 December 2010
Aydin Akay	Until 31 December 2010

3. Judge de Silva

Judge Joseph Asoka Nihal de Silva, one of the permanent judges, has indicated that he has to return to his national judiciary. Currently, he is Presiding Judge in the Military II case, a multi-accused trial in the judgement drafting phase. Judgement delivery is not expected before mid-2010.

Judge de Silva has presided in three additional single-accused cases (Muvunyi, Rugambarara and Rukundo) in parallel with the long evidence phase of the Military II trial.

Judge de Silva is fully committed to the completion of the Military II case and to his work during the judgement drafting phase. However, he is asking for permission to return to his country, take on judicial work there and finalize his work for the Tribunal on a part-time basis, returning to Arusha when necessary for deliberations and judgement delivery. Judge de Silva is willing to forego his International Criminal Tribunal for Rwanda salary during the time of part-time work. He has assured me that his obligations in Sri Lanka would not delay the judgement delivery at the Tribunal. As President of the Tribunal, I have accepted his assurances.

Considering the importance of ensuring timely completion of the Military II trial and taking into account the specificities of the situation of Judge de Silva, I request the Security Council to authorize Judge de Silva to work part-time until the delivery of the judgement in the Military II case and to engage in another occupation in his home country.

4. Status of the ad litem judges

The issue of the status of the International Criminal Tribunal for Rwanda ad litem judges has been raised before the Security Council already in the previous completion strategy report and will be addressed again in the next report, which I will present to the Security Council on 4 June.

As appears from the various documents and memorandums on this subject exchanged between the Secretary-General, the Fifth Committee of the General Assembly and the Advisory Committee on Administrative and Budgetary Questions, as well as the General Assembly resolutions on the issue, various entitlements including pension are withheld from ad litem judges on the basis that their service, unlike that of permanent judges, was expected to be of a temporary nature and could be intermittent (see A/55/806, para. 7, which stated: "This essential difference has been taken into account by the Committee [ACABQ] in evaluating the necessity of a number of the entitlements and allowances proposed in the report of the Secretary-General").

However, the initial assumption that ad litem judges would serve intermittently for brief periods only and with a different responsibility from permanent judges did not turn out to be so. The ad litem judges of the International Criminal Tribunal for Rwanda have contributed immensely to the effective functioning of the Tribunal and, more particularly, to the success of the completion strategy. From the inception of their terms of office they were assigned multiple cases and, due to the nature of these cases, they were required to take up permanent residence at the seat of the Tribunal. Through Security Council resolution 1855 (2008), they have been given the additional responsibility of acting as presiding judges because of the

unavailability of permanent judges to undertake this responsibility. Their competencies are now nearly identical to those of permanent judges.

The denial of the benefits mentioned above is therefore no longer justified, and is a matter of grave concern for the ad litem judges, nearly half of whom will have spent more than six years at the Tribunal by December 2009 (see appendix II). In spite of this concern, they have, up till now, continued to perform their functions diligently and steadfastly. The expeditious resolution of this matter is in the overall interest and proper functioning of the Tribunal and the success of the completion strategy.

I should be grateful if you would bring this matter to the attention of the General Assembly and the Security Council for their review of the current situation.

(*Signed*) Dennis **Byron**
President

Appendix I

Current assignments of judges and expected judgement delivery

Judge	*Case*	*Expected judgement delivery*
Permanent Judges		
Dennis C. M. Byron (Saint Kitts and Nevis)	Karemera et al. (presiding)	End 2010
	Kalimanzira (presiding)	Mid-2009
	Muvunyi (re-trial) (to start in June 2009) (presiding)	Second half of 2009
Khalida Rachid Khan (Pakistan)	Bizimungu et al. (presiding)	Mid-2010
	Nshogoza (presiding)	Mid-2009
	Ntawukulilyayo (presiding)	Mid-2010
William H. Sekule (United Republic of Tanzania)	Nyiramasuhuko et al. (Butare) (presiding)	Mid-2010
	Ngirabatware (presiding) (start of the trial not yet clear following Appeals Chamber decision to change the trial date)	Second half of 2010
Erik Møse (Norway)	Renzaho (presiding)	Second quarter of 2009
	Nsengimana (presiding)	Third quarter of 2009
	Setako (presiding)	Fourth quarter of 2009
Arlette Ramaroson (Madagascar)	Nyiramasuhuko et al. (Butare)	Mid-2010
	Hategekimana (presiding)	Early 2010
Sergei Alekseevich Egorov (Russian Federation)	Renzaho	Second quarter of 2009
	Nsengimana	Third quarter of 2009
	Setako	Fourth quarter of 2009
Asoka J. N. de Silva (Sri Lanka)	Ndindilyimana et al. (Military II) (presiding)	Mid-2010

Judge	*Case*	*Expected judgement delivery*
Ad Litem Judges		
Solomy Balungi Bossa (Uganda)	Nyiramasuhuko et al. (Butare)	Mid-2010
	Ngirabatware (start of the trial not yet clear following Appeals Chamber decision to change the trial date)	Second half of 2010
Lee Gacuiga Muthoga (Kenya)	Bizimungu et al.	Mid-2010
	Nshogoza	Mid-2009
	Ntawukulilyayo	Mid-2010
Florence Rita Arrey (Cameroon)	Renzaho	Second quarter of 2009
	Nsengimana	Third quarter of 2009
	Setako	Fourth quarter of 2009
	Munyakazi (presiding)	Mid-2010
Emile Francis Short (Ghana)	Bizimungu et al.	Mid-2010
	Kanyarugika (to start in June 2009) (presiding)	Mid-2010
Taghrid Hikmet (Jordan)	Ndindilyimana et al. (Military II)	Mid-2010
	Hategekimana	Early 2010
Seon Ki Park (Republic of Korea)	Ndindilyimana et al. (Military II)	Mid-2010
	Kanyarugika (to start in June 2009)	Mid-2010
Gberdao Gustave Kam (Burkina Faso)	Karemera et al.	End 2010
	Kalimanzira	Mid-2009
	Muvunyi (re-trial) (to start in June)	End 2009

Judge	*Case*	*Expected judgement delivery*
Vagn Joensen (Denmark)	Karemera et al.	End 2010
	Kalimanzira	Mid-2009
	Muvunyi (re-trial) (to start in June)	End 2009
Joseph E. Chiondo Masanche (United Republic of Tanzania)	Hategekimana	Early 2010
	Kanyarugika (to start in June 2009)	Mid-2010
Richard Mparany M. Rajohnson (Madagascar)	Munyakazi	Mid-2010
	Ngirabatware (start of the trial not yet clear following Appeals Chamber decision to change the trial date)	Second half of 2010
Aydin Sefa Akay (Turkey)	Munyakazi	Mid-2010
	Ntawukulilyayo	Mid-2010

Appendix II

Duration of service of ad litem judges

Judge	*Years of uninterrupted service in December 2009*
Solomy Balungi Bossa (Uganda)	6 years, 4 months
Lee Gacuiga Muthoga (Kenya)	6 years, 2 months
Florence Rita Arrey (Cameroon)	6 years, 2 months
Emile Francis Short (Ghana)	5 years, 7 months
Taghrid Hikmet (Jordan)	5 years, 4 months
Seon Ki Park (Republic of Korea)	5 years, 4 months
Gberdao Gustave Kam (Burkina Faso)	5 years, 4 months
Vagn Joensen (Denmark)	2 years, 8 months
Joseph E. Chiondo Masanche (United Republic of Tanzania)	11 months
Richard Mparany M. Rajohnson (Madagascar)	11 months
Aydin Sefa Akay (Turkey)	11 months